

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2072 of 2015

- Deepak Kumar Sahu S/o Late Data Ram Sahu, Aged About 26 Years R/o Village Khokhari, P.S. & Tahsil Pamgarh, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Panchayat Department, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh
2. The Sub Divisional Officer, (Prescribed Authority Under Panchayat Raj Adhiniam), Pamgarh, District Janjgir Champa Chhattisgarh
3. Tahsildar, Pamgarh, District Janjgir Champa Chhattisgarh
4. Gangaram, S/o Sukrit Ram Sahu, R/o Village Khokhari, P.S. & Tahsil Pamgarh, District Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner	Mr. H.V. Sharma, Advocate
For Respondent /State	Mr. P.K. Bhaduri, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

23/11/2015

Heard finally with the consent of learned counsel for the parties.

(2) The petitioner is Sarpanch of Gram Panchayat Khokhari, Tehsil Pamgarh, District Janjgir-Champa. The SDO (Revenue) has initiated proceedings against him for his removal under Section 40 of the Panchyat Raj Adhiniyam, 1993 (in short “the Adhiniyam”) on the ground that the petitioner has encroached on several pieces of government

land in the village.

(3) Mr. Sharma, learned counsel for the petitioner, would submit that the SDO (Revenue) has only called for a report from the Tehsildar and initiated the proceedings, whereas, unless and until proceedings are drawn against the petitioner under Section 248 of the C.G. Land Revenue Code (in short “the Code”) and are finalized in accordance with law, the fact of encroachment is not established. Therefore, merely on the basis of some report of the Tehsildar, proceedings under Section 40 of the Adhiniyam is not maintainable.

(4) Considering the submissions made by learned counsel for the petitioner, the writ petition is disposed of with a direction that the concerned Tehsildar shall initiate proceedings against the petitioner under Section 248 of the Code within a period of one month from today, and conclude the same within a period of 04 months thereafter. The Tehsildar shall thereafter place the order before the SDO (Revenue), who shall proceed against the petitioner. It is made clear that the SDO (Revenue) shall not wait till execution of the order under Section 248 of the Code, but shall proceed as and when final order is passed by the Tehsildar under Section 248 of the Code.

(5) With the aforesaid observations/directions, the writ petition stands finally disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)